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## Via CM/ECF

Mr. Peter R. Marksteiner  
Clerk of the Court  
United States Court of Appeals for the  
Federal Circuit  
717 Madison Place, N.W.  
Washington, D.C. 20439

Re: *SAS Institute Inc. v. World Programming Limited*, Appeal No. 21-01542

Dear Col. Marksteiner:

Pursuant to Federal Rule of Appellate Procedure 28(j), Appellant SAS Institute Inc. (“SAS”) brings to the Court’s attention the enclosed decision in *Cat & Dogma, LLC v. Target Corp.*, No. 20-50674, 2021 WL 4726593 (5th Cir. Oct. 8, 2021) (the “Opinion”).

As explained in SAS’s opening brief, one of the reasons that the burden is on the defendant to show that everything it is alleged to have copied is unprotectable is that the Copyright Act provides a statutory presumption to timely registration certificates. Dkt. 13, at 40–41. Contrary to the authority SAS cited, Appellee World Programming Ltd. argues that the statutory presumption does not apply in the filtration step of the abstraction-filtration-comparison analysis. Dkt. 76 at 37–38.

Yet, consistent with SAS’s argument and cited authority, in the Opinion, the Fifth Circuit applied the presumption in the filtration step. Specifically, when conducting the filtration analysis, the court relied on the plaintiff’s registration certificate and held that the presumption of validity supported a finding that the copied element was protectable. 2021 WL 4726593, at \*3. As a result, the Fifth Circuit’s approach to the burden-shifting analysis is consistent with the other circuits. Dkt. 13, at 41; Dkt. 78 at 3–4.

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Respectfully submitted,

/s/ Dale M. Cendali

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*Principal Counsel for Plaintiff-Appellant  
SAS Institute Inc.*

CC: All counsel of record (via CM/ECF)